

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Erica Jung	Team: Squad #1	CCRB Case #: 202103446	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 05/31/2021 12:25 AM	Location of Incident: § 87(2)(b)	Precinct: 77	18 Mo. SOL 11/30/2022	EO SOL 11/30/2022	
Date/Time CV Reported Mon, 06/07/2021 4:30 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 06/07/2021 4:30 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Gabrielle Haskins	03181	952835	077 PCT
2. POM Jonathan Niles	08653	948109	077 PCT
3. POM Arnold Murphy	29794	935374	077 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Peter Stark	26264	926166	077 PCT
2. POM Israel Dolce	18710	957552	077 PCT
3. POF Jenia Goeloe	06076	967525	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Arnold Murphy	Abuse: Police Officer Arnold Murphy entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM Arnold Murphy	Abuse: Police Officer Arnold Murphy searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.POM Jonathan Niles	Discourtesy: Police Officer Jonathan Niles acted discourteously toward § 87(2)(b)	§ 87(2)(b)
D.SGT Gabrielle Haskins	Abuse: Sergeant Gabrielle Haskins entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
E.SGT Gabrielle Haskins	Abuse: Sergeant Gabrielle Haskins searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
F.POM Jonathan Niles	Abuse: Police Officer Jonathan Niles failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
G.POM Arnold Murphy	Abuse: Police Officer Arnold Murphy failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed this complaint with the CCRB in-person on June 7, 2021.

On May 31, 2021 at approximately 12:25 am, § 87(2)(b) called 911 to report a burglary. PO Jonathan Niles and PO Arnold Murphy, assigned to the 77th Precinct, arrived at § 87(2)(b)'s apartment § 87(2)(b) in Brooklyn to take the report. PO Murphy entered and searched § 87(2)(b)'s apartment to investigate the burglary (**Allegations A and B—Abuse of Authority: § 87(2)(g)**). Afterwards, PO Niles grabbed a report that § 87(2)(b) was filling out, crumpled it, and put it in his pocket (**Allegation C—Discourtesy: § 87(2)(g)**). PO Niles called for his supervisor, Sgt. Gabrielle Haskins, assigned to the 77th Precinct, who responded and entered and searched § 87(2)(b)'s apartment (**Allegation D and E—Abuse of Authority: § 87(2)(g)**). At the conclusion of the incident, PO Niles and PO Murphy failed to provide § 87(2)(b) with their business cards (**Allegations F and G—Abuse of Authority: § 87(2)(g)**).

The investigation obtained BWC footage of this incident from PO Niles, PO Murphy, and Sgt. Haskins, in addition to PO Jenia Goeloe, PO Israel Dolce, and PO Peter Stark, all assigned to the 77th Precinct. There are six BWC videos in total (Board Reviews 01-06).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Arnold Murphy entered § 87(2)(b) in Brooklyn.

Allegation (B) Abuse of Authority: Police Officer Arnold Murphy searched § 87(2)(b) in Brooklyn.

It is undisputed that on May 31, 2021, § 87(2)(b) called 911 to report a break-in at her apartment at § 87(2)(b) in Brooklyn.

§ 87(2)(b) stated that when PO Niles and PO Murphy arrived at her apartment, she told them that someone had broken into her apartment and stolen several items, including her lease and \$850 in cash. § 87(2)(b) offered to let PO Niles and PO Murphy into her home to dust for fingerprints, but she did not recall when. At one point in the incident, PO Niles and PO Murphy entered the apartment. No officer entered the apartment against § 87(2)(b)'s wishes (Board Review 07).

At approximately 08:34 in the player's timestamp of PO Murphy's BWC footage, PO Murphy says, "let's check your windows. Could you open the door?" to #§ 87(2)(b) opens her door shortly after and holds it open for PO Murphy to enter. § 87(2)(b) shows him a room in the back of the apartment where her missing items had been. PO Murphy is the only officer that enters the apartment (Board Review 01).

PO Niles stated that he told § 87(2)(b) that he needed to go inside her apartment to investigate the burglary. § 87(2)(b) invited PO Niles and PO Murphy to come inside, and PO Murphy entered the apartment. PO Murphy checked the front door and windows, which were in the kitchen and in the back of the apartment (Board Review 08). PO Murphy stated that he told § 87(2)(b) that he and PO Niles needed to go upstairs to her apartment to investigate the burglary. PO Murphy asked § 87(2)(b) if he could come inside, and § 87(2)(b) let him inside her apartment. PO Murphy went inside the apartment with § 87(2)(b) and checked the windows for signs of tampering. § 87(2)(b) then showed PO Murphy to a room where she had stored her social security card, which was missing. § 87(2)(b) did not say anything about her not wanting PO Murphy inside her apartment. PO Niles did not enter the apartment (Board Review 09).

People v. Kelly, 58 A.D.3d 868 (2d Dept 2009) found that police can enter a home when they have the voluntary consent of a party who possesses the requisite degree of authority and control over the premise (Board Review 10). “Police may lawfully conduct a warrantless search when they have obtained the voluntary consent of a party who possesses the requisite degree of authority and control over the premises or personal property in question.” People v. Cosme, 48 N.Y.2d 286 (1979) (Board Review 11).

§ 87(2)(g) BWC footage captures § 87(2)(b) opening her door and showing PO Murphy to an interior room, knowing that he was a police officer who was investigating a burglary, § 87(2)(g)

§ 87(2)(g)

Allegation (C) Discourtesy: Police Officer Jonathan Niles acted discourteously toward

§ 87(2)(b)

§ 87(2)(b) stated that she had already filled out a complaint form about a prior incident and went inside her apartment to retrieve it. § 87(2)(b) did not want to give the report to PO Niles and PO Murphy due to her distrust of the 77th Precinct and wanted to submit the report to a different precinct instead. For this reason, § 87(2)(b) held up the report to PO Niles and PO Murphy for them to read. PO Niles and PO Murphy asked to see the report, but they did not ask § 87(2)(b) to hand the report to them. PO Niles grabbed the report from § 87(2)(b)'s hands, crumpled it up, and stuffed it into his pocket. PO Niles then told § 87(2)(b) that they would not investigate her complaint (Board Review 07).

At approximately 16:05 in PO Murphy's BWC footage, § 87(2)(b) begins to actively fill out a new report that PO Niles handed to her. The report was not completed prior to this incident. PO Niles argues with § 87(2)(b) about how to fill out the report correctly. PO Niles tells § 87(2)(b) that she can put her missing items down as lost but not stolen, to which § 87(2)(b) insists that they were stolen. PO Niles asks § 87(2)(b) if he can see the report. § 87(2)(b) holds the report in front of PO Niles's face and PO Niles asks to hold it. § 87(2)(b) says no, and PO Niles asks to hold the report again. § 87(2)(b) continues to hold the report in front of PO Niles. PO Niles asks to see the report and grabs it with both hands while § 87(2)(b) is still holding onto it. PO Niles asks § 87(2)(b) to give him the paper and takes the paper away from her hands. § 87(2)(b) tells PO Niles that he tore the report out of her hand and PO Niles says, “I don't think so.” § 87(2)(b) says, “the paper is ripped,” and PO Niles responds, “yeah this is... it's not even gonna be useful.” PO Niles folds the report in half. § 87(2)(b) repeatedly tells PO Niles that she wants the paper back and PO Niles tells her that it is police property (Board Review 01).

PO Niles stated that he handed § 87(2)(b) a form to fill out, but she was not filling it out accurately. PO Niles told § 87(2)(b) that she had to report her missing items as lost and not stolen, and that they had to get a new report to fill out. PO Niles asked her to hand over the form and § 87(2)(b) held the form up to his face and refused to give it back. PO Niles took the form back from § 87(2)(b) who did not let go of it willingly. § 87(2)(b) did not explain why she did not want to give the form to him. While PO Niles was holding the form in his hand, § 87(2)(b) tried to take it back. PO Niles crumpled it up and put it in his pockets because he was going to get another form from downstairs, which he communicated to her (Board Review 08).

Patrol Guide Procedure 200-02 states that officers must be courteous and respectful to civilians (Board Review 12).

§ 87(2)(g) the testimonies of § 87(2)(b) PO Niles, and PO Murphy and that BWC footage captured this portion of the incident, § 87(2)(g)

However, PO Niles' multiple requests to see the report that § 87(2)(b) was filling out served a law enforcement purpose as he was responsible for ensuring that the information on the report was filled out accurately so that he could file the necessary report. Moreover, the report that § 87(2)(b) was filling out was police property, which she was not entitled to keep.

§ 87(2)(g)

Allegation (D) Abuse of Authority: Sergeant Gabrielle Haskins entered § 87(2)(b) in Brooklyn.

Allegation (E) Abuse of Authority: Sergeant Gabrielle Haskins searched § 87(2)(b) in Brooklyn.

At approximately 09:48 in Sgt. Haskin's BWC footage, Sgt. Haskins asks § 87(2)(b) "is it okay to come in and check out the apartment?" § 87(2)(b) says, "of course." Sgt. Haskins enters the apartment shortly after (Board Review 05).

People v. Kelly, 58 A.D.3d 868 (2d Dept 2009) found that police can enter a home when they have the voluntary consent of a party who possesses the requisite degree of authority and control over the premise (Board Review 10).

§ 87(2)(g) BWC footage captures § 87(2)(b) explicitly accepting Sgt. Haskin's request to enter her home knowing that she was a police officer who was investigating a burglary, § 87(2)(b)

§ 87(2)(g)

Allegation (F) Abuse of Authority: Police Officer Jonathan Niles failed to provide § 87(2)(b) with a business card.

Allegation (G) Abuse of Authority: Police Officer Arnold Murphy failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) stated that neither PO Niles nor PO Murphy provided her with a business card (Board Review 07).

PO Niles stated that he did not provide a business card to § 87(2)(b) because she never asked him for one. To his knowledge, police officers are required to provide a business card to civilians when there is a stop and frisk situation or upon request. PO Niles did not know if any other officer provided § 87(2)(b) with a business card (Board Review 08).

PO Murphy stated that he did not provide a business card to § 87(2)(b) because she never asked him for one. To his knowledge, police officers are required to provide a business card upon request but are not required to under other circumstances (Board Review 09).

PO Niles' BWC footage did not show PO Niles providing his business card to § 87(2)(b) at

any point in the incident (Board Review 02). PO Murphy's BWC footage did not show PO Niles providing his business card to § 87(2)(b) at any point in the incident (Board Review 01).

Officers are required to provide business cards to civilians upon request, and at the conclusion of any police activity that does not result in an arrest or summons, including investigatory questioning of victims of or witnesses to a crime, NYC Administrative Code §14-174 (Board Review 13).

PO Niles filed a UF 61 report for a burglary at § 87(2)(b)'s apartment (Board Review 14). § 87(2)(g) was still considered a victim of a crime when PO Murphy and PO Niles were asking her questions. As such, PO Murphy and PO Niles were required to provide their business cards.

§ 87(2)(g)
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Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 15).
- PO Niles has been a member of service for 12 years and has been a subject in two CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)
- PO Murphy has been a member of service for 17 years and has been a subject in 12 CCRB complaints and 19 allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Haskins has been a member of service for nine years and has been a subject in one other CCRB complaint and three allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- Mediation was not accepting cases thus mediation was not offered.
- As of July 15, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (Board Review 16).

§ 87(2)(g)
§ 87(2)(g)

Squad: 1

Investigator: Inv. Jung Erica Jung 9/23/2021
Signature Print Title & Name Date

Squad Leader: Mgr. Joy Almeyda 9.23.21
Signature Print Title & Name Date

Reviewer: Signature Print Title & Name Date